

A RESOLUTION BY

CITY UTILITIES COMMITTEE

02- *R* -0587

A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF SIX HUNDRED EIGHTY-FOUR THOUSAND EIGHT HUNDRED AND 00/100 DOLLARS (\$684,800.00) PURSUANT TO THE CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT AND FIRST AMENDED CONSENT DECREE, CIVIL ACTION FILE NO. 1:98-CV-1956-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, on March 22, 2002 the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA) made a written demand on the City for stipulated penalties concerning violations of both the CSO Consent Decree (1:95-CV-2550-TWT) and the First Amended Consent Decree (1:98-CV-1956-TWT); and

WHEREAS, the City is subject to stipulated penalties for failure to report combined sewer overflows in the Quarterly Report (2001) and to provide disinfection performance data in violation of interim Operational Standards as required by the CSO Consent Decree; and

WHEREAS, under the First Amended Consent Decree the City is subject to stipulated penalties for sanitary sewer overflows (SSOs) to waters and dry land (3rd Quarter 2001 and 4th Quarter 2001); and

WHEREAS, the City is subject to stipulated penalties for untimely reporting of discharges to EPD within 24 hours orally and to EPD and EPA within 5 days in writing by certified mail as required by the Collection System Contingency and Emergency Response Plan and First Amended Consent Decree (3rd Quarter 2000; 4th Quarter 2000; 1st, 2nd, 3rd and 4th Quarters 2001); and

WHEREAS, the City is also subject to stipulated penalties for failure to establish monitoring and report in the Short Term Collection and Transmission Operation Plan (July 1, 1999 to October 5, 2001) two small pump stations (one serving a single home and the other serving approximately a dozen residences) and for error in the Macro System Evaluation Report (August 1, 2001 to January 24, 2002); and



WHEREAS, the total amount assessed and demanded by EPD and EPA for these violations is Six Hundred Eighty-Four Thousand Eight Hundred and 00/100 (\$684,800.00) as set out in Exhibit "A" hereto; and

WHEREAS, on December 20, 2001 the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA) made a written demand that Section XI.L of the First Amended Consent Decree be enforced requiring payment of interest on any future late payment of stipulated penalties and specified that interest on late payment of \$270,500 for spills in the 2nd Quarter of 2001 (due October 29, 2001 and transmitted November 16, 2001) be included with any future payment of stipulated penalties; and

WHEREAS, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

WHEREAS, the Department of Public Works of the City does not dispute the fact that these violations did occur; and

WHEREAS, the payment to EPD and EPA of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, funds for this purpose are available in account number 2J01-529017-M51001; and

WHEREAS, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA as follows:

Section One: That the Chief Financial Officer of the City is authorized to issue checks in the amounts of Three Hundred Forty-Two Thousand Four Hundred and 00/100 (\$342,400.00) payable to the **State of Georgia** and Three Hundred Forty-Two Thousand Four Hundred (\$342,400.00) payable to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the Consent Decree and First Amended Consent Decree at the discretion of the Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia; and

Section Two: That the Chief Financial Officer is authorized to pay interest due on the said stipulated penalties in accordance with the Consent Decree and First Amended Consent Decree; and

Section Three: That the said payments be chargeable to Account Number 2J01 529017 M51001.

A true copy,

Rhonda Doughtin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

APR 01, 2002
APR 05, 2002

Exhibit A

Summary of Penalty Demand

First Amended Consent Decree Violations	Amount
3 rd Quarter 2000 SSO Reporting	\$32,000
4 th Quarter 2000 SSO Reporting	\$8,000
1 st Quarter 2001 SSO Reporting	\$58,000
2 nd Quarter 2001 SSO Reporting	\$102,000
3 rd Quarter 2001 SSO Reporting	\$76,000
4 th Quarter 2001 SSO Reporting	\$12,000
3 rd Quarter 2001 SSOs	\$128,500
4 th Quarter 2001 SSOs	\$92,500
3 rd Quarter 2001 Quarterly Reporting	\$26,000
4 th Quarter 2001 Quarterly Reporting	\$8,000
Unreported Pump Stations	\$45,300
Macro System Reporting	\$42,500
Consent Decree Violations	Amount
CSO Reporting	\$24,000
CSO Operational Standards Reporting	\$30,000
TOTAL DEMAND	\$684,800

RCS# 3635
4/01/02
2:42 PM

Atlanta City Council

Regular Session

CONSENT I

Except; 02-R-0531; 02-R-0499; R-0497; R-0561
02-R-0498; 02-R-0588; 02-R-0589; 02-R-0513
ADOPT

SEE ATTACHED LISTING OF ITEMS
ADOPTED/ADVERSED ON
CONSENT AGENDA

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	NV Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	B Woolard

ITEM (S) REMOVED FROM
CONSENT AGENDA
02-R-0497
02-R-0498
02-R-0499
02-R-0513
02-R-0531
02-R-0561
02-R-0589

CORRECTED COPY

CONSENT I

		04/01/02 Council Meeting
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSE ON CONSENT AGENDA
1. 02-O-0562	34. 02-R-0486	63. 02-R-0514
2. 02-O-0564	35. 02-R-0511	64. 02-R-0515
3. 02-O-0566	36. 02-R-0587	65. 02-R-0516
4. 02-O-0568	37. 02-R-0492	66. 02-R-0517
5. 02-O-0582	38. 02-R-0493	67. 02-R-0536
6. 02-O-0389	39. 02-R-0557	68. 02-R-0537
7. 02-O-0392	40. 02-R-0521	69. 02-R-0538
8. 02-O-0390	41. 02-R-0522	70. 02-R-0539
9. 02-O-0458	42. 02-R-0523	71. 02-R-0540
10. 02-O-0394	43. 02-R-0524	72. 02-R-0541
11. 02-O-0397	44. 02-R-0525	73. 02-R-0542
12. 02-O-0399	45. 02-R-0526	74. 02-R-0543
13. 02-O-0400	46. 02-R-0527	75. 02-R-0544
14. 02-O-0401	47. 02-R-0528	76. 02-R-0545
15. 02-O-0402	48. 02-R-0529	77. 02-R-0546
16. 02-O-0403	49. 02-R-0530	78. 02-R-0547
17. 02-O-0404	50. 02-R-0567	79. 02-R-0548
18. 02-O-0405	51. 02-R-0588	80. 02-R-0549
19. 02-O-0408	52. 02-R-0518	81. 02-R-0550
20. 02-R-0464	53. 02-R-0556	82. 02-R-0551
21. 02-R-0494	54. 02-R-0558	83. 02-R-0552
22. 02-R-0495	55. 02-R-0585	84. 02-R-0553
23. 02-R-0496	56. 02-R-0586	85. 02-R-0554
24. 02-R-0500	57. 02-R-0349	86. 02-R-0555
25. 02-R-0560	58. 02-R-0506	
26. 02-R-0569	59. 02-R-0532	
27. 02-R-0570	60. 02-R-0533	
28. 02-R-0571	61. 02-R-0534	
29. 02-R-0572	62. 02-R-0535	
30. 02-R-0573		
31. 02-R-0574		
32. 02-R-0595		
33. 02-R-0596		

02- R -0587

(Do Not Write Above This Line)

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ADOPTED BY

APR 01 2002

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☐ PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee

Date

Chair

Referred to

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd

Readings

☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED

APR 1 2002

COUNCIL PRESIDENT PROTEM

CERTIFIED

APR 01 2002

Rachel Douglas Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

APR 05 2002

MAYOR